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Governor



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Lt. Governor

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Governor Baker Announces Plan to Keep Vaping Product Ban in Place Until December 11th, Signs Legislation Placing New Restrictions on Vaping, Tobacco Products

While emergency regulations to ban all vaping products remains in place, DPH will promulgate new regulations for vaping restrictions

BOSTON – Governor Charlie Baker today announced the Baker-Polito Administration plans to keep the temporary ban on the sale of all vaping products in place until December 11th and signed legislation placing new restrictions on the sale of e-cigarette and nicotine vaping products and flavored tobacco products. The administration also announced that the [Department of Public Health \(DPH\) will begin drafting new regulations related to the sale of vaping products that will be presented on December 11.](#)

The new law, *An Act Modernizing Tobacco Control*, includes a number of restrictions on the sale of tobacco products, including limiting the sale of flavored nicotine vaping products to licensed smoking bars where they may only be smoked on-site. The legislation signed today also grants DPH new authority to regulate the sale of nicotine vaping products, to ensure the public is informed about the potential dangers of vaping and to implement other provisions of the law in order to protect the public health.

In the interest of public health, the ban on the sale of all vaping products will remain in effect until December 11, 2019 to permit DPH and the Public Health Council time to consider and adopt implementing regulations.

“In light of the growing health crisis associated with e-cigarettes and vaping, our administration implemented a temporary ban on the sale of e-cigarette and vaping products to provide time for legislative and regulatory bodies to better understand what's making people sick and act to protect the health of Massachusetts residents,” **said Governor Charlie Baker**. “Today, as we sign this new legislation implementing new restrictions on vaping and tobacco products, we are also keeping the

temporary ban in place as the Department of Public Health develops permanent regulations that will ensure risks are known to consumers, clarify what interventions DPH can take to address clear risks identified by the developing science, and ensure sellers are not skirting the new law and selling to kids.”

“It is essential our young people have the opportunities to safely grow up in the Commonwealth, and we have made strides in the prevention of youth nicotine and taken bold action in the face of a growing, deadly public health risk,” **said Lt. Governor Karyn Polito**. “Today e-cigarettes are the most commonly used form of tobacco by youth in Massachusetts. This legislation will further restrict the sale of nicotine containing products to minors, providing the opportunity for them to live healthy, safe lives.”

On December 11, 2019, the Public Health Council will convene at its regularly scheduled meeting to consider regulations in accordance with the new law to:

- Require the posting of signage in any location where vaping products are sold to warn customers of the dangers of severe lung disease associated with vaping products and more generally advising of the health risks of vaping.
- Specify the authority of the Commissioner of DPH to prohibit the sale of a designated vaping product on a determination that the product causes vaping-related lung illness or poses a substantial risk to public health.
- Strengthen state and local enforcement, including by specifying procedures by which DPH or local Boards of Health may inspect retail locations and the products they are selling for compliance with the law, and providing for penalties for violations.
- Establish how retailers and manufacturers must comply with the law's requirement that vaping products with nicotine content of more than 35 mg/ml may only be sold in 21+ establishments.
- Require vaping products to be placed behind the counter in all non-age restricted retailers (e.g., convenience stores).

“To protect Massachusetts residents from the emerging public health risk posed by vaping products, this administration acted to temporarily ban the sale of vaping products to allow public health experts and lawmakers to identify the best path forward, and this temporary ban remains in effect,” **said Health and Human Services Secretary Marylou Sudders**. “Our goal remains the protection of public health. The continuation of the temporary ban provides a brief period to develop regulations that provide clarity and explicit guidance to local law enforcement and boards of health, consumers, and retailers.”

“As a physician and commissioner of the Department of Public Health, I continue to recommend that people not use any e-cigarette or vaping products. These products are not safe,” **said Public Health Commissioner Monica Bharel, MD, MPH**. “Massachusetts has a long history of smoking cessation programs, and I want residents to know that help is available to quit.”

The legislation signed today restricts the sale of vaping products with nicotine content over 35 milligrams per milliliter to licensed, adult-only retail tobacco stores and smoking bars. Non-flavored

vaping products with a nicotine content of less than 35 milligrams per milliliter may be sold in retail stores generally licensed to sell tobacco products, including convenience stores, gas stations, and other retail outlets.

Beginning on June 1, 2020, the sale of all other tobacco products that have a characterizing flavor (e.g. menthol cigarettes and flavored chewing tobacco) will also be restricted to licensed smoking bars where they may be sold only for on-site consumption. In addition, the new law imposes a 75% excise tax on the wholesale price of nicotine vaping products (in addition to the 6.75% sales tax), which also takes effect June 1, 2020.

"Vaping companies have taken a page right out of the Big Tobacco playbook – marketing to kids, breaking age verification laws, and minimizing the health risks of these addictive products," **said Attorney General Maura Healey**. "If we are going to stop the youth vaping epidemic, we need to change the laws on the books. I thank the Governor and the Legislature for making this a priority, and I credit the young people who have been advocating for a healthier future."

"While we continue to learn more about the dangers of vaping, it is absolutely our responsibility to prevent marketing of vaping products, which we know to be harmful, to our children," **said Senate President Karen E. Spilka (D - Ashland)**. "We must also make it less appealing for young people to take up smoking, which often leads to a lifetime of addiction, serious health consequences, and death. By increasing access to smoking cessation programs, we are reaffirming our commitment to our residents in their efforts to quit smoking and tobacco products altogether. I would like to thank Senator John Keenan and everyone who worked so hard to move this issue forward."

"Massachusetts moved quickly to act on behalf of the children of the Commonwealth to modernize our laws that regulate tobacco," **said House Speaker Robert A. DeLeo (D - Winthrop)**. "This bill bans all flavored tobacco and makes it easier for people to access the tools they need to quit tobacco use. This nation-leading step will save lives. I hope other states will follow our example in combatting this public health crisis with comprehensive legislation."

"The current youth vaping epidemic is the result of age-old industry tactics used to target kids," **said Senator John Keenan (D - Quincy)**. "We had made great strides in Massachusetts at decreasing the number of youth smokers, but with the introduction of e-cigarettes and the variety of flavors available, we lost decades of progress. With this bill, we are telling Big Tobacco they can never again use flavors to target kids in Massachusetts. I'd like to thank Governor Baker, Senate President Spilka, Speaker DeLeo, my partner in this fight Representative Gregoire, and the young people who spoke up about this issue to protect their generation. My hope is that as we listened to the brave voices of the young people in Massachusetts, other states will do the same and pass legislation to prevent youth nicotine addiction."

"Today marks yet another step that Massachusetts will take to protect our children and the overall public health of the Commonwealth," **said Rep. Danielle Gregoire (D - Marlborough)**. "On this day, we take the final step to make this bill a law, further demonstrating that we will no longer afford big vape and big tobacco the opportunity to hook another generation on nicotine."

On September 24, 2019, Governor Baker declared a public health emergency in response to the outbreak of severe lung disease associated with e-cigarettes and vaping products. DPH subsequently instituted emergency regulations which prohibit the sale of all vaping products in Massachusetts.

The state's Cannabis Control Commission has also [quarantined THC-based vaping products](#), except for a specific carve-out for devices exclusively to vaporize marijuana flower for medical use patients.

The cause of e-cigarette- or vaping product use-associated lung injury (EVALI) remains unknown and is under investigation at both the state and federal level. Massachusetts clinicians are asked to report to DPH any individual experiencing otherwise unexplained progressive symptoms of shortness of breath, fatigue, chest pain, cough, or weight loss, of any severity, and an abnormal chest imaging study, who also report vaping within 90 days before the onset of symptoms, and are to ask patients to retain any vaping devices and products.

Since the state began [mandating](#) the [reporting](#) of vaping-associated lung injuries on September 11, DPH has received 278 reports from clinicians of suspected vaping-associated lung injuries, 164 of which meet the criteria for investigation by DPH. DPH has completed review of clinical records and made case determinations for 132 patients. A total of 82 cases (26 confirmed and 56 probable cases) have been reported to the US Centers for Disease Control and Prevention. As of November 6, 3 people are confirmed to have died of vaping-associated lung injury, including a woman in her 60s from Hampshire County who vaped nicotine, a woman in her 40s from Middlesex County who vaped nicotine, and a man in his 50s from Worcester County reported vaping both nicotine and tetrahydrocannabinol (THC).

As a result of the vaping ban, the Commonwealth has implemented a statewide standing order for over-the-counter nicotine replacement products that allow adults to access products like gum, lozenges, and patches as a covered benefit through their insurance without requiring an individual prescription. The Massachusetts Smoker's Helpline ([1-800-QUIT NOW](#)) has doubled free over-the-counter nicotine replacement products from 4 weeks to 8 weeks, once a person receives counseling by phone. The legislation signed today requires health insurance plans (including the GIC and MassHealth) to cover smoking cessation counseling and FDA-approved products without cost-sharing.

Individuals who are vaping are encouraged to call the [Massachusetts Smokers' Helpline](#) at [1-800-QUIT-NOW](#) or visit [makingsmokinghistory.org](#) or [Mass.gov/QuitVaping](#) to connect to treatment.

Information regarding today's announcement is available at [Mass.gov/VapingEmergency](#). The site will continue to be updated.

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